(2)

No. 04-1493

Supreme Court, U.S.
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In The Supreme Court of the United States

ANITA J. VEDDER, *et vir.*,

Petitioner,

v.

WASHINGTON MUTUAL BANK, *et al.*,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

RESPONSE OF ALL RESPONDENTS EXCEPT FOR FEDERAL NATIONAL MORTGAGE ASSOCIATION IN OPPOSITION

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QUESTION PRESENTED FOR REVIEW

The question presented for review is:

Whether the Court may exercise jurisdiction over Petitioner's case, which seeks to obtain review by the Court following the foreclosure of her mortgage, a) when no case or controversy has been heard or ruled upon regarding this matter by the United States Court of Appeals for the Sixth Circuit or the Tennessee Supreme Court, b) when Tennessee state courts have dismissed Petitioner's alleged claims with prejudice, c) when the United States District Court for the Middle District of Tennessee has dismissed a suit by Petitioner, which sought to vacate the Tennessee state court rulings, for lack of jurisdiction, and d) when Petitioner has only recently appealed the Middle District of Tennessee District Court's ruling to the Sixth Circuit Court of Appeals, where such case is presently pending?

CORPORATE DISCLOSURE

Pursuant to Supreme Court Rule 29.6, Respondent Washington Mutual Bank is a federally chartered savings association with its headquarters in Seattle, Washington. It is a wholly owned subsidiary of New American Capital, Inc., which is a wholly owned subsidiary of Washington Mutual, Inc. As of April 4, 2005, Washington Mutual Bank, FA changed its corporate title to Washington Mutual Bank. Although the corporate title changed, Washington Mutual Bank remained a federally chartered savings association.

Pursuant to Supreme Court Rule 29.6, Respondent Washington Mutual, Inc. is the parent holding company for a number of subsidiaries, including New American Capital, Inc. Washington Mutual, Inc. is a publicly traded company. There are no parent corporations or publicly held companies owning 10% or more of Washington Mutual, Inc.'s stock.

Pursuant to Supreme Court Rule 29.6, Respondent North American Mortgage Company no longer exists as a corporate entity. Washington Mutual Bank is the successor in interest to North American Mortgage Company.

Pursuant to Supreme Court Rule 29.6, Respondent HomeSide Lending no longer exists as a corporate entity. Washington Mutual Bank is the successor in interest to HomeSide Landing.

Pursuant to Supreme Court Rule 29.6, Respondent Shapiro & Kirsch, LLP is a Tennessee limited liability partnership. There are no parent corporations or publicly held companies owning 10% or more of Shapiro & Kirsch, LLP.

TABLE OF CONTENTS

	Page
Question Presented for Review	i
Corporate Disclosure	ii
Table of Contents	iii
Table of Authorities	v
Statement of the Case	1
A. Petitioner's Default Regarding the Underlying Mortgage Transaction	1
B. Prior Litigation Proceedings	2
Summary of the Argument	14
Argument	15
I. The Court Lacks Jurisdiction Over Petitioner's Alleged Case	15
A. The Petition Fails to Establish Jurisdiction Under Article III	15
B. The Petition Fails to Establish Supreme Court Jurisdiction Under 28 U.S.C. § 1254(1)	16
C. The Petition Fails to Establish Jurisdiction Under 28 U.S.C. § 2403	17
D. There is No Jurisdiction Based on Petitioner's Alleged Repatriated Status	18
E. There is No Jurisdiction Under 28 U.S.C. § 1333	18
F. Jurisdiction Does Not Exist Under 28 U.S.C. § 1257	19

TABLE OF CONTENTS – Continued

Page

II. There is No "Compelling Reason" to Grant the Writ of Certiorari 20

III. Petitioner Lacks Standing..... 22

IV. The Petition Should be Dismissed Because Petitioner Has Not Followed The Requirements of Supreme Court Rule 14..... 25

Conclusion 26

TABLE OF AUTHORITIES

Page

FEDERAL CASES

The Belfast, 74 U.S. 624 (1868) 19

Durley v. Mayo, 351 U.S. 277 (1956) 15

Frances Kenny Family Trust v. World Sav. Bank FSB, No. C 04-03724 WHA, Slip Copy, 2005 WL 106792 (N.D. Cal. Jan. 19, 2005) 4

Hinz v. Washington Mut. Home Loans, 2004 WL 729239 (D. Minn. 2004) 4

In re Strickland, 179 B.R. 979 (Bankr. N.D. Ga. 1995) 5

Marbury v. Madison, 5 U.S. 137 (1803) 15

McMichael v. Falls City Towing Co., 199 F. Supp.2d 632 (W.D. Ky. 2002) 19

McNutt v. Gen. Motors Acceptance Corp. of Ind., 298 U.S. 178 (1936) 15

Nixon v. Individual Head of St. Joseph Mortg. Co., 615 F. Supp. 898 (C.D. Ind. 1985) 5

Rene v. Citibank NA, 32 D. Supp.2d 539 (E.D.N.Y. 1999) 4

Theil v. First Federal Sav. & Loan Ass'n of Marion, 646 F. Supp. 592 (N.D. Ind. 1986) 4

Valley Forge Christian Coll. v. Am. United for Separation of Church and State, 454 U.S. 464 (1982) 23, 24

Warth v. Seldin, 422 U.S. 490 (1975) 22, 23

Yamaha Motor Corp., U.S.A. v. Calhoun, 516 U.S. 199 (1996) 19

TABLE OF AUTHORITIES – Continued

Page

UNITED STATES CONSTITUTION

U.S. Const. art. III 14, 15, 22, 23

U.S. Const. art. III § 1 ..... 14, 15

U.S. Const. art. III § 2 ..... 9, 14, 15, 16

FEDERAL STATUTES

8 U.S.C. § 1481(a)(6) 11, 18, 23

8 U.S.C. § 1481(b) 12

28 U.S.C. § 1254(1) 14, 15, 16

28 U.S.C. § 1257 ..... 14, 19

28 U.S.C. § 1257(a) 20

28 U.S.C. § 1291 9

28 U.S.C. § 1331 11

28 U.S.C. § 1332 11

28 U.S.C. § 1333 ..... 11, 14, 18

28 U.S.C. § 2403 17

28 U.S.C. § 2403(a) 14, 17

28 U.S.C. § 2403(b) 14, 17, 18

49 U.S.C. § 80113 11

49 U.S.C. § 80116 11

FEDERAL RULES

Fed. R. Civ. P. 3 9

Fed. R. Civ. P. 4 9

TABLE OF AUTHORITIES – Continued

Page

Supreme Court Rule 10 ..... 14, 21

Supreme Court Rule 14 ..... 14, 25, 26

STATEMENT OF THE CASE

The underlying dispute in this matter stems from Petitioner's default in the payments of her mortgage held by Washington Mutual Bank ("Washington Mutual"),[1] and Petitioner's subsequent efforts to stave off foreclosure through a fraudulent debt elimination scheme. The Washington Mutual Respondents (i.e., all Respondents except for Federal National Mortgage Association) recognize that their opposition to the Petition for Writ of Certiorari (the "Petition") is not the place for a lengthy discussion of the merits of the foreclosure matter. Nevertheless, the Court should note that the Petition is just one more filing in a series of frivolous and incomprehensible pleadings by Petitioner in abuse of the judicial process.

Petitioner's Statement of the Case is confusing, but reveals that her appeal is not ripe for review and that the Court does not have jurisdiction to hear this case. To analyze the jurisdictional issues, it is first necessary to understand the relationship between Petitioner and Respondent Washington Mutual and the convoluted litigation history between Petitioner and the Washington Mutual Respondents.

A. Petitioner's Default Regarding the Underlying Mortgage Transaction.

Petitioner purchased residential property at 1000 Kilgrow Court, Smyrna, Tennessee (the "Property"), on

[1] As of April 4, 2005, Washington Mutual Bank, FA changed its corporate title to Washington Mutual Bank. Although the corporate title changed, Washington Mutual remained a federally chartered savings association.

July 5, 1999, using a mortgage loan in the principal amount of $97,600.00. As expressly authorized by Petitioner in the Note she executed regarding the mortgage loan, and as is common regarding secured residential mortgage notes, the Note and Deed of Trust executed by Petitioner were assigned to subsequent purchasers. Respondent Washington Mutual is the present Note Holder and payee under the Note.

Petitioner, by her own admission, defaulted in her performance of the mortgage Note in August 2002 by failing to make the required payments under the Note. The foreclosure sale of Petitioner's Property was conducted on March 29, 2005. *See* Petition at 12. Eviction proceedings followed the foreclosure, and Petitioner vacated the Property on May 19, 2005.

B. Prior Litigation Proceedings.

Petitioner filed her first action *pro se* on August 9, 2002 in the Circuit Court in Rutherford County, Tennessee ("Tennessee Circuit Court") against "Respondent David Riedel, d/b/a North American Mortgage Company, Washington Mutual, FA." Mr. Riedel, who was employed by Washington Mutual Bank, FA, but who resided in California, filed a motion to dismiss on September 9, 2002, asserting that the state court lacked personal jurisdiction over him. The Tennessee Circuit Court dismissed the Petitioner's suit due to lack of personal jurisdiction over Mr. Riedel on October 1, 2002.

Petitioner filed suit for the second time on February 6, 2003, again *pro se* and again in the Tennessee Circuit Court in Rutherford County, Tennessee. This time she sued Washington Mutual Bank, FA, Washington Mutual

Bank, Inc., North American Mortgage Company, Homeside Lending, and Kerry Killinger (who is Washington Mutual Bank's Chairman, President, and CEO) (the "State Court Defendants"). Petitioner styled her complaint in that case ("State Complaint") as "Complaint: Motion to Ratify and Enforce All Stipulations To Agreements, Created By and Resulting From Defendants' Breach of Contract Including Certificate of Notarial Protest, With *All* Civil and Criminal Penalties Allowed By Law Enforced." Petitioner asserted the following eight alleged causes of action against the State Court Defendants:

1. ***"BREACH OF CONTRACT: Absence of DEFENDANTS' "Good Faith", Lack of Consideration, Conversion of a Promissory Note into a Draft Instrument, made payable to themselves, DEFENDANTS and Transfer Of Petitioner's Asset to the Credit of DEFENDANTS."***

2. ***"FRAUD in the INDUCEMENT: Non-Disclosure and Misrepresentation of Material Facts: use of an altered negotiable instrument to raise additional assets for themselves, false Good Faith Estimate and false loan disclosures made to Petitioner where no loan existed, failure to provide Petitioner with required documents at closing and usury."***

3. ***"FRAUD in Various Forms: Forgery: by unilaterally modifying a two-party contract without disclosure or permission by assigning the note with alteration to a third party who was not party to the original note in violation of UCC Article 3 Negotiable Instruments § 3-203 and***

fraud; theft by false pretext, theft of services and theft by deception."

4. ***"Ratification and Enforcement of the Administrative Agreements on the merits per Rules of Due Process and STARE DECISIS."***

5. ***"Civil Violations of the Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681 et sequentes."***

6. ***"Multiple Violations of TITLE 15 > CHAPTER 41 > SUBCHAPTER V DEBT COLLECTION PRACTICES ACT > Sec. 1692c and Sec. 1692d."***

7. ***"Civil Violations of PART B of the TRUTH IN LENDING ACT."***

8. ***"Criminal Violations of the TRUTH IN LENDING ACT for willful and knowing violation."***

While much of the State Complaint is incomprehensible, Petitioner appeared to assert three theories: 1) her mortgage is fraudulent because the Note and Deed of Trust were assigned by the original mortgage holder, which she claims improperly converted them into a check;[2] 2) her

[2] This theory is the so-called "vapor money" theory. Generally, the theory asserts that because the borrower in a mortgage transaction received no actual cash in hand, the loan was never made. The theory has no basis in law and, in fact, has been resoundingly rejected by various courts across the country as a fraudulent debt elimination scheme. *Frances Kenny Family Trust v. World Sav. Bank FSB*, No. C 04-03724 WHA, Slip Copy, 2005 WL 106792, at *5 (N.D. Cal. Jan. 19, 2005) (citing *Hinz v. Washington Mut. Home Loans*, 2004 WL 729239 (D. Minn. 2004); *Rene v. Citibank NA*, 32 D. Supp.2d 539 (E.D.N.Y. 1999); *Theil v. First Federal Sav. & Loan Ass'n of Marion*, 646 F. Supp.

(Continued on following page)

mortgage obligation was somehow relinquished due to the alleged non-disclosure to her of the fact that the Note and Deed of Trust could be assigned; and 3) Petitioner complains of alleged *ultra vires* activities of Washington Mutual.

The State Court Defendants moved to dismiss Petitioner's State Complaint for failure to state claims recognized by law and because some of the alleged claims were time-barred. Petitioner opposed that motion to dismiss. The Tennessee Circuit Court judge sent a letter to the parties on May 28, 2003, stating, in pertinent part:

> . . . . For the reasons stated below, we find that the motion submitted by counsel for the defense seeking dismissal of the action pursuant to Rule 12 of the *Rules of Civil Procedure* should be granted, and thus the motion to set for a final contested hearing must be denied.
>
> Within our consideration of the issues upon Rule 12, we are limited to the matters alleged in the complaint itself, and in our consideration of the legal issues and factual matters, we have considered only those contained within the complaint. We have recognized each of the eight causes of action asserted by the Petitioner. It is our duty to examine the complaint in detail, which we have done, closely examining the facts that are asserted therein. Though the Petitioner has stated legal grounds cognizable under the law, we are not allowed simply to recognize that a cause of action cognizable under law has been stated, unless we also examine the facts alleged

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592 (N.D. Ind. 1986); *Nixon v. Individual Head of St. Joseph Mortg. Co.*, 615 F. Supp. 898 (C.D. Ind. 1985); *In re Strickland*, 179 B.R. 979 (Bankr. N.D. Ga. 1995)).

> and determine that the facts alleged fairly state a cause of action as alleged. We have liberally construed the pleadings, however, remembering that our state only requires that the pleadings fairly provide notice of the claims asserted and the facts alleged.
>
> The Petitioner's first cause of action, for example, is . . . for breach of contract. It is well-established that the law will recognize a suit for breach of contract. In order to state a breach of contract, however, the Petitioner must allege facts which, if true, would constitute an action so recognized under law. Thus, it has been our duty to closely examine the complaint to determine whether, in fact, a cause of action for breach of contract has been stated. We fail to be able to discern the existence of such facts. Thus, though the law recognizes an action for breach of contract, it is our duty to dismiss that allegation upon our finding that the complaint does not state facts sufficient to establish that cause of action. In our consideration of the pleadings, it is our duty under Rule 12 to consider that all matters plead occurred as stated within the complaint and thus the Court must consider at this point that all matters plead are true.
>
> Similarly we have examined the allegations of fraud in the inducement and fraud generally. While both are cognizable under the law we fail to find that the pleadings establish such a cause of action. . . .

Based on these findings, the Tennessee Circuit Court granted the State Court Defendants' motion to dismiss and dismissed Petitioner's complaint with prejudice in an order entered on June 11, 2003 (the "June 11, 2003 Order"). On

July 3, 2003, Petitioner filed a notice of appeal to the Tennessee Court of Appeals.

Notwithstanding that appeal, Petitioner then filed in the Tennessee Circuit Court a "Verified Petition to Vacate a Void Judgment and Direct Attack Under Authority of 12 USC, Banks and Banking, TCA 16-10 Part 1, General Jurisdiction, Section 101, and Tennessee Rules of Civil Procedure Rules 56, 60.02.3 and 60.02.5" ("State Court Petition"). Petitioner's State Court Petition asserted that the June 11, 2003 Order was void because, Petitioner contended, the Tennessee Circuit Court "lacked subject matter jurisdiction ab initio to rule in this case, a federal matter pertaining to a fraudulent mortgage note, which should have been decided in the UNITED STATES DISTRICT COURT." The State Court Defendants filed a response in opposition to and motion to dismiss Petitioner's Verified Petition to Vacate a Void Judgment. Petitioner amended her State Court Petition to also assert that diversity jurisdiction existed and created exclusive federal court jurisdiction, and the State Court Defendants opposed that amendment as well. On December 16, 2003, the Tennessee Circuit Court entered an order granting the State Court Defendants' motion to dismiss and dismissing Petitioner's amended State Court Petition with prejudice.

Petitioner then pursued her appeal in the Tennessee Court of Appeals. In that appeal, Petitioner argued that Tennessee state courts did not have subject matter jurisdiction to hear her claims, that only federal courts could hear such claims, and that those claims had to be dismissed without prejudice for that reason. She also asserted that the Tennessee Circuit Court erred in dismissing her claims on the basis that they failed to state a claim. The Tennessee Court of Appeals issued its Judgment and

Memorandum Opinion on November 30, 2004. *See* Petition B-143-49. That Court of Appeals rejected Petitioner's jurisdictional arguments and affirmed the dismissal of Petitioner's alleged claims with prejudice. Petitioner did not seek review of the Tennessee Court of Appeals' decision in the Tennessee Supreme Court.[3] *Id.*

While the above-described litigation was ongoing, Respondent Washington Mutual pursued action against Petitioner, also in Tennessee state court, to reform the Deed of Trust related to the Property in order to cure a discrepancy in the Deed so that foreclosure of the Property could proceed.[4] *See* Petition at 10. In April 2004, the Chancery Court for Rutherford County, Tennessee, reformed the Deed of Trust and also ordered that the Deed was valid and enforceable against Petitioner. *See id.* at 10 & A-20-21. Petitioner attempted to appeal that ruling to the Tennessee Court of Appeals, but failed to submit the required bond for costs for the appeal after being ordered to do so. Consequently, her appeal was dismissed. *See id.* A-11.

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[3] The Petition states that Petitioner filed a Notice of Appeal of the Tennessee Court of Appeals' November 30, 2004 order in the Sixth Circuit Court of Appeals on December 16, 2004. Petition at 9-10. The Washington Mutual Respondents have not seen any such Notice of Appeal, have not been apprised of any case or briefing schedule related to that Notice of Appeal, and have not seen any ruling by the Sixth Circuit Court of Appeals related to that Notice of Appeal. The Washington Mutual Respondents' counsel also checked the Sixth Circuit's Docket, but could not find any such case docketed.

[4] The mortgage funds had been distributed at the closing in the name of Anita J. Vedder individually before it was known that Ms. Vedder had transferred the Property title to Anita J. Vedder as trustee of a trust regarding the Property. The title action was brought to obtain an order to reform the Deed of Trust to reflect disbursement of the funds to, and title ownership by, the correct entity. Petition B-139-40.

Petitioner then sought to "appeal" that ruling directly to the United States Court of Appeals for the Sixth Circuit. *Id.* at 10-11 & A-3-4. On September 21, 2004, the Sixth Circuit dismissed Petitioner's filing, explaining:

> This court lacks jurisdiction over this appeal. This court has jurisdiction to review all final decisions of the district courts of the United States within the Sixth Circuit. *See* 28 U.S.C. § 1291. However, no case was filed in the district court nor was a decision entered by the district court. Vedder states in the notice of appeal that this court has jurisdiction pursuant to Fed. R. App. P. 4, Fed. R. App. P. 44, and Fed. R. Cvi. P. 9(b), but those rules do not provide this court with jurisdiction to review actions by a clerk of the Chancery Court of Rutherford County in Tennessee. ***Any attempt by Vedder to seek review of the matter should either be in the Chancery Court or the state court that has authority to review Chancery Court decisions.***

Petition A-4 (emphasis added).[5] The Sixth Circuit also denied Petitioner's petition for rehearing en banc in an order entered on December 7, 2004. *See id.* A-2. Petitioner never sought review of the action to reform the Deed of

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[5] It is inconceivable that Petitioner is seeking certiorari review of this Sixth Circuit order because, as stated by the Sixth Circuit, no case or controversy ever existed in that court. An actual case or controversy must be presented via a complaint and summons for a court to address before any appeal may lie or any certiorari may be sought. U.S. Const. art. III, § 2; Fed. R. Civ. P. 3 & 4. This is an axiomatic part of the "case or controversy" requirement that must exist before a federal court may exercise jurisdiction over a matter. Petitioner never filed a complaint or summons in any federal court related to the Sixth Circuit's September 21, 2004 order. Thus, the Sixth Circuit's dismissal of Petitioner's filing is not an order from which certiorari may be sought.

Trust in either the Tennessee Chancery Court or in the Tennessee Court of Appeals, which is the state court that has authority to review Tennessee Chancery Court decisions.

In February 2005, Petitioner, still *pro se*, filed in this Supreme Court of the United States (with two other persons who are apparently from somewhere in the Eighth Circuit) an "Application to an Individual Justice, pursuant to USSC Rule 22 The Honorable, Associate Justice Clarence J. Thomas, for a Sixty (60) Day Extension of Time To File a Joint Cross-Circuit Repatriated Sovereign: Joint Petition for a Common-Law Writ of Certiorari To The United States Court of Appeals for the Eighth Circuit, et al." ("Application"). That Application lists as the "*6th Circuit Civil Respondents*" the same State Court Defendants whom Petitioner sued in Tennessee Circuit Court.

Notwithstanding her apparent intention to seek review in this Court of the Sixth Circuit's final dismissal of her filing in December 2004, Petitioner filed a complaint (the "Federal Court Complaint") in the United States District Court for the Middle District of Tennessee on March 24, 2005 (along with a demand for a temporary restraining order and injunctive relief). Petitioner filed the Federal Court Complaint in an effort to stop the foreclosure sale of her Property, which was scheduled for March 29, 2005. Petitioner's Federal Court Complaint is entitled "Repatriated Petitioner's Verified Complaint pursuant to 28 USC § 1333 and 8 USC § 1481(a)(6)." Petitioner's Federal Court Complaint names as defendants not only the State Court Defendants, but also the law firm performing the foreclosure sale (i.e., Shapiro & Kirsch, LLP) and the attorneys and employees at that law firm who were working on the foreclosure sale. Those defendants are the

same Washington Mutual Respondents named in the Petition currently pending before this Court.

Like the Petition, Petitioner's Federal Court Complaint asserts that the action is brought "In Admiralty." *See* Petition at iii. Petitioner asserts as the jurisdictional basis for her complaint "28 USC § 1331, 28 USC § 1332, and 28 USC § 1333" and 8 U.S.C. § 1481(a)(6) as well. She cites 49 U.S.C. Sections 80113 and 80116 as the basis for federal question jurisdiction, and claims that the parties are diverse and that "[t]his civil action arises under 28 USC § 1331, 28 USC § 1332, and 28 USC § 1333 as a limited action wherein a federal question, saved to suitors, exists based upon complete diversity between the parties[.]" Petitioner maintains that she "is not a resident of the corporate UNITED STATES or of the STATE OF TENNESSEE[,]" but acknowledges that she is "attempting to live peacefully and peaceably on the dirt of her land in the Republic state of Tennessee," and that she "has been a sovereign citizen of the Republic state of Tennessee since June 17, 2002. . . ."

The District Court dismissed Petitioner's Federal Court Complaint on March 30, 2005 for lack of subject matter jurisdiction. *See* Petition A-5-8 ("District Court Order").[6] The District Court, after referencing a similar

[6] The Washington Mutual Respondents, before knowing that the District Court had dismissed Petitioner's Federal Court Complaint, filed a motion to dismiss that complaint on April 5, 2005. In that motion, the Washington Mutual Respondents asserted that there was no federal question jurisdiction under 28 U.S.C. § 1331, complete diversity jurisdiction did not exist under 28 U.S.C. § 1332, there was no admiralty jurisdiction under 28 U.S.C. § 1333, no federal question jurisdiction existed under 8 U.S.C. § 1481(a)(6), and that Petitioner's claims were barred by the *res judicata* doctrine even if federal subject matter jurisdiction did exist.

action brought by Petitioner in federal court in October 2003 that also was dismissed, found that Petitioner did not state any federal question in her complaint and further found that diversity jurisdiction did not exist because Petitioner is a Tennessee citizen and, thus, is not diverse from Shapiro & Kirsch, LLP, a Tennessee limited liability partnership. The District Court Order specifically addressed Petitioner's argument that she is a "repatriated sovereign" and that such status means that there is exclusive federal court jurisdiction over her claims:

> Plaintiff claims to be a "repatriated sovereign" pursuant to 8 U.S.C. § 1481(a)(6). That statute provides that:
>
> > A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality –
> >
> > (6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense.
>
> *Id.* Further, "[w]henever the loss of United States nationality is put in issue in any action or proceeding . . . , the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence." 8 U.S.C. § 1481(b).

> Here, Plaintiff has sent "Notice[s] of Declaration of True Citizenship and Non-juristic Status" in late June and early July, 2002 to several federal and state officials, including President Bush and Chief Justice Rehnquist, but did not send such notice to the Attorney General or a designated officer. (Docket Entry No. 1 at Exhibit D attached thereto). Nor did Plaintiff receive acceptance of her purported renunciation of citizenship from the Attorney General. *Id.* Plaintiff has therefore not met her burden of providing her renunciation of American citizenship. As a consequence, the Court cannot accept Plaintiff's contention that she has effectively renounced her nationality and has become an independent sovereign. Accordingly, for purposes of this Order, the Court will treat Plaintiff as a Tennessee citizen.

See Petition A-5-6 n.1.

Petitioner filed a Notice of Appeal to appeal the District Court Order to the Sixth Circuit Court of Appeals on April 22, 2005. Notwithstanding the Notice of Appeal, Petitioner then filed the Petition for Writ of Certiorari in the United States Supreme Court on May 6, 2005. As noted, the Petition names as Respondents the same parties who were named as defendants in the Federal Court Complaint (other than Federal National Mortgage Association[7]) and who are now appellees regarding Petitioner's appeal of that case to the Court of Appeals for the Sixth Circuit.

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[7] Federal National Mortgage Association has never before been named as a party in any case in this matter and, it is believed, has never been served process regarding this matter.

SUMMARY OF THE ARGUMENT

The Petition for Writ of Certiorari should be denied for lack of jurisdiction over Petitioner's case. Article III of the United States Constitution and applicable case law establish that the Supreme Court is a court of limited jurisdiction. Therefore, a writ of certiorari may be granted only if the required jurisdictional grounds exist. Contrary to Petitioner's conclusory assertions, the Court does not have jurisdiction under Article III, Sections 1 and 2, 28 U.S.C. Section 1254(1), 28 U.S.C. Section 2403(a) and (b), or 28 U.S.C. Section 1333. In addition, Petitioner cannot show that jurisdiction lies under 28 U.S.C. Section 1257.

Further, a review of the considerations governing review on certiorari in Supreme Court Rule 10 confirm that the Petition must be denied. There is no conflict between United States Courts of Appeals on any of the alleged issues stated by Petitioner, and she has not alleged as much. Moreover, the Tennessee Supreme Court has not decided in this matter any federal question related to the alleged issues stated by Petitioner. Thus, there certainly is no decision by the Tennessee Supreme Court that conflicts with any other state courts of last resort or any United States court of appeals.

The Petition also must be denied because Petitioner lacks standing to seek review in the Court. Because the Petitioner cannot show injury, causation or redressability, the Petitioner does not have standing.

Finally, the Petition for Writ of Certiorari submitted by Petitioner does not conform to the requirements of Supreme Court Rule 14.

ARGUMENT

I. The Court Lacks Jurisdiction Over Petitioner's Alleged Case.

The Court lacks jurisdiction to review this matter. It is axiomatic that the Supreme Court is a court of limited jurisdiction, whose "province" is "solely" to decide cases or controversies concerning "the rights of individuals." U.S. Const. art. III; *Marbury v. Madison*, 5 U.S. 137, 170 (1803). A petitioner has the burden of establishing jurisdiction in the Supreme Court. *Durley v. Mayo*, 351 U.S. 277, 285 (1956); *McNutt v. Gen. Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936). In her "Jurisdictional Statement," Petitioner asserts several purported bases for Supreme Court jurisdiction. The Petition fails to meet the requirements of jurisdiction on all grounds.

A. The Petition Fails to Establish Jurisdiction Under Article III.

Petitioner first claims that Supreme Court jurisdiction lies under Article III, Sections 1 and 2 of the United States Constitution and 28 U.S.C. Section 1254(1). Petition at 3. Article III, Section 1 establishes the Supreme Court, gives Congress the authority to create inferior courts, and provides behavioral standards for and compensation of court judges, but that section does not establish Supreme Court jurisdiction. *See* U.S. Const. art. III, § 1. Article III, Section 2, on the other hand, grants the Supreme Court original jurisdiction over cases affecting "Ambassadors, other public Ministers and Consuls, and those in which a

State shall be Party,"[8] and further grants the Supreme Court appellate jurisdiction over all other cases that otherwise meet jurisdictional requirements, such as standing. *Id.* at § 2. As discussed below, Petitioner has not met the jurisdictional requirements to invoke review by the Court.

B. The Petition Fails to Establish Supreme Court Jurisdiction Under 28 U.S.C. § 1254(1)

For its part, 28 U.S.C. Section 1254(1) is an enabling statute under Article III, Section 2. That statute gives the Court jurisdiction to review cases from the United States Circuit Courts of Appeals. *See* 28 U.S.C. § 1254(1). Here, however, there is no case or judgment issued by the Court of Appeals for the Sixth Circuit from which an appeal to the Supreme Court would lie under Section 1254(1). In her first trip to the Sixth Circuit, Petitioner's appeal was dismissed because "no case was filed in the district court nor was a decision entered by the district court." Petition A-4. Thus, since there was no case for review before the Sixth Circuit Court of Appeals, there is no case from which any requested review would lie.

In Petitioner's next trip to federal court, she filed her Federal Court Complaint on March 24, 2005, and it was dismissed on March 30, 2005. On April 22, 2005, less than a month and a half ago, Petitioner appealed the District Court's dismissal of her Federal Court Complaint to the Sixth Circuit Court of Appeals. That case has been docketed

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[8] Petitioner has not argued that the Court may assert original jurisdiction over her case. Even if she did, though, she would be in error because this matter does not involve ambassadors or other public ministers, and no state is a party.

(and is reflected in the PACER system), but has not yet been heard, much less ruled upon. Thus, any appeal to the Supreme Court from the pending Federal Court Complaint action is not ripe for review.[9]

C. The Petition Fails to Establish Jurisdiction Under 28 U.S.C. § 2403.

Next, Petitioner posits that "there is a possibility that one or both 28 U.S.C. § 2403(a) and (b), may apply in these cases." Petition at 3. Subsection (a) of 28 U.S.C. Section 2403 allows for the United States to intervene in "any action, suit or proceeding in a court of the United States to which the United States or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn into question." This provision gives the United States authority to intervene in suits involving a constitutional question, but does not provide jurisdiction for a claim in the Supreme Court. Subsection (b) of the statute allows for state intervention in "any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public

[9] Petitioner also claims that she filed a Notice of Appeal in the Sixth Circuit on December 16, 2004, seeking to appeal from the Tennessee Court of Appeals' November 30, 2004 decision. Petition at 9-10. The Washington Mutual Respondents have received no notice of any such case or any decision. The Washington Mutual Respondents' counsel also checked the Sixth Circuit's Docket, but could not find any such case docketed. Nevertheless, even if the Notice of Appeal was filed by Petitioner, no actual case was filed in the District Court nor was any decision issued by the District Court (and no decision has been entered by the Sixth Circuit).

interest is drawn into question." 28 U.S.C. § 2403(b). These provisions obviously do not provide for the Court's jurisdiction of Petitioner's alleged claims because neither the United States nor any state is seeking to intervene in this action.

D. There Is No Jurisdiction Based On Petitioner's Alleged Repatriated Status.

Petitioner gives "notice to the Supreme Court of the United States that Petitioner has expatriated to the Republic state of Tennessee from the corporate UNITED STATES." Petition at 3. This statement is similar to those Petitioner asserted in the District Court in her Federal Court Complaint where Petitioner proclaimed to be a repatriated sovereign pursuant to 8 U.S.C. Section 1481(a)(6). However, that statute does not grant jurisdiction to the Court in this matter. The statute provides a mechanism to revoke United States nationality, but does not purport to give Petitioner, or any party, jurisdiction in the United States Supreme Court. The issue of whether Petitioner has revoked her nationality is currently on appeal to the Sixth Circuit Court of Appeals. *See* Petition at A-5-6 n.1. Accordingly, the Court cannot grant certiorari to take up the issue at this time because the Sixth Circuit has not yet heard or ruled on that issue.

E. There Is No Jurisdiction Under 28 U.S.C. § 1333.

The Petition states that Petitioner has filed this matter "***IN ADMIRALTY***." Petition at iii. However, the admiralty jurisdiction statute, 28 U.S.C. Section 1333, does not apply. To state a claim under Section 1333, a

complaint must allege an admiralty or maritime basis for the action, such as a breach of a maritime contract or a maritime tort. *The Belfast*, 74 U.S. 624, 637 (1868); *McMichael v. Falls City Towing Co.*, 199 F. Supp.2d 632, 634 (W.D. Ky. 2002). Admiralty courts may hear maritime contract disputes and tort actions in which injury occurred ***on navigable waters***, even if those claims are stated in state tort law. *Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199, 206 (1996); *McMichael*, 199 F. Supp.2d at 634-35. Here, Petitioner's Federal Court Complaint does not allege the involvement of any maritime contract or maritime tort to properly invoke subject matter jurisdiction under that statute. Petitioner does not allege that any injury occurred on navigable waters, but alleges that she is being wrongfully dispossessed of real property. Obviously, this action has nothing to do with admiralty or maritime jurisdiction.

F. Jurisdiction Does Not Exist Under 28 U.S.C. § 1257.

Although Petitioner did not expressly assert 28 U.S.C. Section 1257 as a basis for jurisdiction, the history of the litigation in Tennessee state courts leads naturally to the issue of whether the Court could grant a writ of certiorari under that statutory jurisdiction provision. Section 1257 provides for appeals from

> [f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had . . . where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn into question on the ground of its being repugnant to the Constitution, treaties, or laws

> of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, any commission held or authority exercised under the United States.

28 U.S.C. § 1257(a).

Petitioner sued the State Court Defendants in the Tennessee Circuit Court and appealed the dismissal of her case to the Tennessee Court of Appeals. Petitioner did not challenge the validity of a treaty or statute of the United States or of a state and there was no federal question, much less an important one, present in the state court action. The Tennessee Court of Appeals issued a Judgment and Memorandum Opinion on November 30, 2004. *See* Petition B-143-49. That court ruled that Petitioner had "failed to state a claim upon which relief can be granted" and affirmed the Tennessee trial court's dismissal of Petitioner's complaint seeking, among other things, to void her defaulted mortgage. *See id.* However, Petitioner elected not to seek review in the Tennessee Supreme Court. The Tennessee Supreme Court, consequently, has not ruled on any of Petitioner's claims. Therefore, there is no final judgment from the "highest court" of Tennessee from which Petitioner can seek the Court's review. Accordingly, Section 1257 cannot serve as a basis for the Court's jurisdiction here.

II. There Is No "Compelling Reason" to Grant the Writ of Certiorari.

There is no compelling justification for the Court to hear this case. The Supreme Court Rules reinforce the special nature of proceedings before the Supreme Court and establish the substantive and procedural requirements for a

petition for writ of certiorari. Sup. Ct. Rule 10. These rules provide that a writ will be granted only for compelling reasons, and require that the Petitioner establish the Supreme Court's jurisdictional basis for hearing the case.

Supreme Court Rule 10 articulates the "Considerations Governing Review on Certiorari." Sup. Ct. Rule 10. The rule establishes that "review on a writ of certiorari is not a matter of right, but of judicial discretion," and emphasizes "a petition for writ of certiorari will be granted only for compelling reasons." *Id.* The rule gives three primary examples of such compelling reasons: (a) that a "United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power"; (b) "a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals"; and (c) "a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court. . . ." *Id.*

Petitioner's case is not compelling. First, there is no conflict between United States courts of appeals on any of the alleged issues stated by Petitioner, and she has not alleged such. Indeed, a United States Court of Appeals has not decided Petitioner's case, and therefore could not have decided it in conflict with another court.

Second, the state court of last resort has not heard the case. The Tennessee Supreme Court has not decided any issues in this matter, including any federal question related to the alleged issues stated by Petitioner. Thus, there certainly is no decision by the Tennessee Supreme Court that conflicts with any other state courts of last resort or any United States courts of appeals that the Court should address and also no decision by the Tennessee Supreme Court in this matter that presents an important federal question that should be settled by the Court.

Third, there is no important question of federal law to be decided by this case. This case is an action by Petitioner to avoid the consequences of her default on her mortgage. It is nothing more, despite Petitioner's vigorous and convoluted arguments to the contrary. Because there are no compelling reasons to grant a writ of certiorari, the Petition should be denied.

III. Petitioner Lacks Standing.

Petitioner cannot meet the requirements to establish her standing in this action. To invoke Supreme Court jurisdiction, a petitioner must have standing before the Court. *Warth v. Seldin*, 422 U.S. 490, 498 (1975). Standing involves both

> constitutional limitations on federal court jurisdiction and prudential limitations on its exercise. In both dimensions it is founded in concern about the proper- and properly limited- role of the courts in a democratic society. In its constitutional dimension, standing imports justiciability: whether the Petitioner has made out a "case or controversy" between himself and the defendant within the meaning of Art. III.

Id. Thus, at an "irreducible minimum" under Article III of the U.S. Constitution, a petitioner must establish (1) injury, (2) causality, and (3) redressability. *Valley Forge Christian Coll. v. Am. United for Separation of Church and State*, 454 U.S. 464, 472 (1982).

The injury requirement seeks to ensure that the Petitioner "personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant." *Id.* Petitioner claims that "Article I courts" have harmed or injured her by "systematically [denying] Petitioner's repatriated status as a sovereign." Petition at 4. Basically, Petitioner claims that via this denial, the "Article I courts" "continue to unlawfully affirm and treat her as a ***'res-ident' of the corporate STATE OF TENNESSEE,*** denying reclamation of Petitioner's" rights, which Petitioner believes allows her to avoid what she alleges to be a fraudulent loan. Petition at 8 (emphasis in original). However, Petitioner did not meet her burden of proving compliance with 8 U.S.C. Section 1481(a)(6) in the District Court (an issue now presumably within her appeal to the Sixth Circuit Court of Appeals). But even if Petitioner could show that she met the requirements of the statute, expatriation only provides a mechanism to renounce United States nationality, it does not turn a person into an independent sovereign exempt from their contractual – including mortgage – obligations. Moreover, Petitioner cannot be injured by invoking the very judicial processes she hoped would allow her to avoid her mortgage. She filed suit against the State Court Defendants and only when a result issued that she did not like did she start to argue that her expatriation voided that adverse judgment, because the state court lacked jurisdiction. In sum, Petitioner has not alleged any cognizable injury by the fact

that she was allowed to sue the State Court Defendants in state court.

The causality requirement of standing asks that Petitioner's injury "fairly [] be traced to the challenged action." *Valley Forge,* 454 U.S. at 473. Here, Petitioner's lower court proceedings involve allegations of a fraudulent mortgage that Petitioner seeks to void while Petitioner's Petition for Writ of Certiorari makes allegations against the "Article I courts." *See* Petition at 4. Indeed, Petitioner spends the majority of her Petition detailing the actions and judgments of these "Article I courts." Thus, even if the Court could set aside the fact that Petitioner has not been injured, it certainly cannot ignore that the Petitioner alleges that her injury was caused not by the alleged actions of Respondents, but generally by "Article I courts."

Finally, Petitioner's purported injury must be "likely to be redressed by a favorable decision." *Valley Forge*, 454 U.S. at 473. Here, Petitioner seems to desire not only that she not have to pay back the fraudulent loan, but because she never saw "***a single penny, nickel, dime or quarter,*** much less the $97,600.00," she should get to keep the Property. Petition at 9 (emphasis in original). Petitioner's claims, however, have been finally addressed by the Tennessee Circuit Court and Tennessee Court of Appeals under Tennessee state property law. Thus, even if Petitioner were to receive a favorable ruling related to her claims of expatriation, Petitioner's underlying claims related to her mortgage cannot be redressed by any decision of this Court. The redress requirement, therefore, is also lacking.

IV. The Petition Should Be Dismissed Because Petitioner Has Not Followed The Requirements of Supreme Court Rule 14.

The Petitioner failed to follow the substantive and formal requirements of Supreme Court Rule 14. Supreme Court Rule 14, "Content of a Petition for a Writ of Certiorari," establishes eight substantive and formal requirements for a petition for writ of certiorari. One requirement is that the Petitioner establish Supreme Court jurisdiction. In order to do this, Petitioner must assert a "concise statement of the basis for jurisdiction in this Court, showing: (i) the date the judgment or order sought to be reviewed was entered . . . ; (ii) the date of any order respecting rehearing . . . ; (iii) express reliance on Rule 12.5 . . . ; (iv) the statutory provision believed to confer this Court jurisdiction to review on a writ of certiorari the judgment or order in question; and (v) if applicable, a statement" that proper notifications have been made. Sup. Ct. Rule 14. Further, Rule 14 proves that "a petition for a writ of certiorari should be stated briefly and in plain terms," and "the failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to ready and adequate understanding of the points requiring consideration is sufficient reason for the Court to deny a petition." *Id.*

The Petition does not follow the requirements of Rule 14. The Petition does not reference any judgment on appeal and cites several statutes that do not provide jurisdiction. In addition, the Petition presents such unusual, unorthodox, and often confusing arguments that Petitioner fails to present accurately and clearly the reasons for the Court's jurisdiction. As a result, the Court should dismiss the Petition.

CONCLUSION

The Court must deny the Petition for a Writ of Certiorari because the Supreme Court lacks jurisdiction to hear the case and Petitioner lacks standing. The Petition also should be denied because it fails to comply with the requirements of Supreme Court Rule 14. The Washington Mutual Respondents, therefore, respectfully request that the Petition be denied.

Respectfully submitted,

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